



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: FEB 14 2002

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

FACTS

You were created as a nonprofit membership corporation under [REDACTED] law, for the following stated purposes:

- A) Create a social bond among Arab Americans who have family or other ties to the City of [REDACTED] and Arabs in [REDACTED]. These ties are explained either by birth or by marriage or by mere inclination to be part of the organization and to help achieve its goals.
- B) To initiate social gathering, parties, lectures, concerts, fund raising events and similar activities.
- C) To provide scholarships to students of these families at the university level. Also to extend this kind of help to some students in the city of [REDACTED] and Arabs in [REDACTED] who attend universities.
- D) Support educational project in schools of [REDACTED] such as sending computers, books, lab equipment and other topics related to education.

Your application states that you were created by a "group of American men and women as a social organization . . . in order to better construct social bond among their families and friends". Towards this end, you have conducted the following specific functions or events:

1. A dinner party, on [REDACTED] at a restaurant, which was attended by 210 people and raised \$[REDACTED] from donations and raffle tickets (such activities will comprise about 60% of your time and efforts annually).

2. A picnic at [REDACTED], on [REDACTED] at which families and friends were served food and soft drinks; admission charges were \$[REDACTED] for adults and \$[REDACTED] for children. The picnic generated \$[REDACTED], plus \$[REDACTED] in raffle proceeds; prizes were donated by your members, their families, and their friends. You also planned a picnic, jointly sponsored with two other organizations ([REDACTED] and "[REDACTED]") for [REDACTED]; you split the net proceeds from this event with these other organizations.

3. Two dinner parties scheduled for [REDACTED] and [REDACTED]

4. A banquet dinner on [REDACTED] admission charges were \$[REDACTED] per person, with proceeds allocated for the support of hospitals in Nazareth. Tickets were sold and distributed by members, some of whom also solicited or donated items for a raffle held at the event.

5. Solicitation of contributions from business and individuals, resulting in \$[REDACTED] being sent to the [REDACTED] ([REDACTED]); an additional \$[REDACTED] was sent to the [REDACTED]. Your president subsequently visited [REDACTED] privately and met with the directors of the two hospitals, with whom he toured the hospitals. You state that 40% of your time and efforts will be devoted to direct solicitations of funds. By letter dated [REDACTED] we asked you to submit a copy of any written procedures or guidelines for making contributions to other organizations. In your response (dated [REDACTED]), you stated as follows:

The Board supports institutions such as schools and hospitals that are recognized and supported by the government in [REDACTED]. The institutions have to have the status of non-Profit organization and work in the parameters of formal education and health.

6. You secure donated computers for [REDACTED] in [REDACTED] and covered the costs for shipping the computers to the school. Your vice president later visited [REDACTED] and saw the computers in use at the school.

7. You provide scholarships to three recipients annually; recipients must be of [REDACTED] descent and have a minimum grade point average of 3.2. A scholarship selection committee reviews the applications and determines the top three applicants based on grades, financial need, and extracurricular activities. The program is publicized through flyers and newsletters sent out regularly to the "American/Arab-American community". You state that you are aware that the selection of scholarship recipients should be fair and justified by the scholarship committee's guidelines, and that your president attends meetings of the scholarship committee in order to witness the selection process. You do not base selection of recipients on employment status, and no relatives of selection committee members will receive scholarships. Some or all of the funds for scholarships were raised from a Scholarship Dinner, held on [REDACTED] by the [REDACTED]

8. You contributed \$ [REDACTED] to the [REDACTED] for the [REDACTED]. The [REDACTED]'s stated purpose for these funds was to help the [REDACTED] in [REDACTED] initiate courses for young people to start their own businesses in [REDACTED]. Our records show that the [REDACTED] is a social welfare organization described in section 501(c)(4) of the Internal Revenue Code.

You periodically publish a newsletter, which is distributed to your members and bears the following statement: "To have a social bond among Arab-Americans from the [REDACTED]. The newsletter publicizes and reports on the fundraising and social functions noted above, and also contains announcements and congratulations of members' activities, *Sympathy and Condolences*, photographs of members participating in events, and advertising of members' businesses. The newsletter is not published on a regular basis, but only when there is a need to report about a function.

You state that you will expand your activities to wider audiences, and will focus on cultural and artistic aspects such as ethnic music and singing, presentation of traditional dress, and storytelling. You state that you plan to invite a key speaker to make a presentation of cultural or social topics at some of these events, and intend to host a troupe of folk dance and music.

You created a youth organization as an extension of your organization. Members must have an affiliation with Arab citizens of [REDACTED] and ages range from 17 to 25. The youth group will also conduct cultural and social activities, such as dinner parties, inviting a lecturer, or creating an artistic activity to educate the general public about Middle Eastern culture.

APPLICABLE LAW

Section 501(a) of the Internal Revenue Code provides for the exemption from federal income taxation of organizations described in section 501(c).

Section 501(c)(3) of the Code describes organizations, exempt under section 501(a), that are organized and operated exclusively for charitable, educational, and certain other purposes listed in that section.

Section 501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for exempt purposes. An organization that fails to meet either the organizational or operational test is not exempt.

Section 501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for exempt purposes only if its articles of organization (a) limit its purposes to exempt purposes, and (b) do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities that do not further exempt purposes.

Section 501(c)(3)-1(b)(1)(iii) of the regulations provides that an organization is not organized exclusively for exempt purposes if its articles expressly empower it to carry on, other

[REDACTED]

than as an insubstantial part of its activities, activities that do not further exempt purposes. Thus, the regulation provides, an organization that is empowered by its articles "to engage in the operation of a social club" does not meet the organizational test even if its articles state that it is created "for charitable purposes within the meaning of section 501(c)(3) of the Code".

Section 501(c)(3)-1(c) of the regulations provides that an organization will be regarded as "operated exclusively" for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities does not further an exempt purpose.

Providing scholarships to students at institutions of higher education is an activity that may further educational and charitable purposes within the meaning of section 501(c)(3) of the Code, under the following circumstances: (1) Scholarships must be based on financial need, see Rev. Rul. 66-103, 1966-1 C.B. 134, or academic merit, Rev. Rul. 69-257, 1969-1 C.B. 151, and (2) the educational and charitable purposes of the scholarship program must not be subordinate to private purposes of the grantor, see, e.g., Rev. Rul. 67-367, 1967-2 C.B. 188.

Rev. Rul. 68-489, 1968-2 C.B. 210, holds that an organization may make grants to nonexempt organizations, if it retains control and discretion over the use of the funds for section 501(c)(3) purposes. An organization retains control and discretion over use of the funds for 501(c)(3) purposes, thus ensuring that the funds are used for such purposes, where it (1) limits distributions to specific projects that further its 501(c)(3) purposes, and (2) maintains records establishing that the funds were in fact used for section 501(c)(3) purposes.

Rev. Ruls. 66-79, 1966-1 C.B. 48, and Rev. Rul. 63-252, 1963-2 C.B. 102, illustrate the treatment of grants to a domestic charity for use outside the United States. These rulings indicate that, like the domestic charity later addressed in Rev. Rul. 68-489, the charity that transfers funds to a non-exempt foreign organization must retain discretion and control over use of the funds for section 501(c)(3) purposes, and may not be merely a conduit between the donor and the non-United States organization.

Rev. Proc. 90-27, 1990-1 C.B. 514, § 5.01, provides, in part, that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

[REDACTED]

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 279 (1946), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

To establish that you are exempt as an organization described in section 501(c)(3), you must establish that your primary purpose is charitable and educational and that no substantial part of your activities is social in nature. The following rulings are helpful in this analysis:

Rev. Rul. 66-179, 1966-1 C.B. 139, shows how garden clubs may qualify for exemption under different sections of the Code depending on their form of organization and method of operation. Situation 1 is an example of a garden club that qualifies for exemption under section 501(c)(3). The club was incorporated as a nonprofit organization for the purposes of instructing the public on horticultural subjects. In furtherance of its purposes, the organization maintained and operated a free library of materials on horticulture and allied subjects, instructed the public on horticulture, held public flower shows of a noncommercial nature, made awards to children for achieving in gardens, and made awards for civic achievement in conservation and horticulture. Membership was open to the public and consisted primarily of amateur gardeners.

Rev. Rul. 67-139, 1967-1 C.B. 129, provides examples of how gem and mineral clubs may qualify for exemption under section 501(c)(3) or 501(c)(7) of the Code. In Situation 1, a club qualifying for exemption under section 501(c)(3) has a membership consisting primarily of amateurs and hobbyists; holds monthly lectures; sponsors field trips; issues a bulletin containing educational materials; maintains a library of reference materials; assists the local museum in its display of gems and minerals; and annually conducts a show for the general public on gems and minerals. The general public is invited to attend all club functions and participate in its programs on substantially the same basis as members.

Rev. Rul. 69-573, 1969-2 C.B. 125, holds that a college fraternity that maintains a chapter house for students of a school is not exempt under section 501(c)(3). The ruling acknowledged that a college fraternity contributes to the cultural and educational growth of its members; its primary purpose, however, is operating a social club, which is not an exempt purpose under section 501(c)(3).

Similarly, in *Phinney v. Dougherty*, 307 F.2d 357 (5th Cir. 1962), the court of appeals held that a gift to a fund to acquire and maintain a chapter house for a fraternity did not qualify for exemption as a charitable and educational organization within the meaning of section 501(c)(3) of the Code. The court reasoned that while this activity furthered educational purposes, it also furthered social purposes; thus, the organization did not operate "exclusively" for section 501(c)(3) purposes, and did not qualify for exemption under section 501(c)(3).

ANALYSIS

Based on the foregoing, we conclude that you do not qualify for exemption under section 501(c)(3), for the following reasons:

[REDACTED]

First, you fail to meet the organizational test in section 1:501(c)(3)-1(b)(1)(iii) of the regulations because your charter states that you are organized to create a "social bond" among persons of Arab American heritage and to conduct "social gatherings" and parties. The regulations specifically cite social purposes as an example of non-exempt purposes that will cause an organization to fail the organizational test for exemption under section 501(c)(3).

Second, consistent with your nonexempt social purposes, you have conducted a number of activities that are not exempt and therefore you are not operated exclusively for exempt purposes described in section 501(c)(3). Your activities have included dinner parties, picnics, and banquets. Like the fraternities and clubs held not to qualify for section 501(c)(3) exemption in Rev. Ruls. 66-179, 67-139, and 69-573, and in the *Phinney* case, *supra*, such activities are more appropriate to a social club than a charitable and educational organization described in section 501(c)(3). In fact, you have indicated that such social activities will comprise 60% of your total activities, and thus will not only be substantial but your primary purpose.

Finally, you have not established that you will conduct charitable and educational activities that further exempt purposes within the meaning of section 501(c)(3). Under Rev. Proc. 90-27, the Service may decline to recognize exemption if an organization does not describe its activities in sufficient detail to permit a conclusion that it will clearly meet the requirements of the section under which exemption is claimed. You have not described selection procedures for scholarships that meet the requirements of Rev. Ruls. 66-103, 69-257, and 67-367; and you have indicated you have made and will make grants to non-exempt organizations, without retaining sufficient discretion and control over the use of the funds to ensure their use for section 501(c)(3) purposes. Nor have you established that you will make grants to non-United States organizations that are organized and operated exclusively for purposes described in section 501(c)(3). Finally, you have made grants to at least one non-section 501(c)(3) organization - the [REDACTED] - without retaining discretion and control over the use of the funds for section 501(c)(3) purposes.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2)

NO PROTEST
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[REDACTED]

of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED], T:EO:CE&O
1111 Constitution Ave, N.W., Room #3B6
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4

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Case	[REDACTED]	[REDACTED]					
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Case	[REDACTED]	[REDACTED]					